



## **Utah Supreme Court Oversight Committee for the Office of Professional Conduct**

### **Meeting Minutes**

October 26, 2020

Via Webex

4:00–5:30 p.m.

*Judge Diana Hagen, presiding*

#### **Attendees:**

Judge Diana Hagen, Chair  
Magistrate Judge Brooke Wells  
Margaret Plane  
Roger Smith  
Art Berger  
John Baldwin, Ex-officio member

#### **Staff:**

Larissa Lee  
Marina Kelaidis, Recording Secretary

#### **Guests:**

Billy Walker, Office of Professional Conduct  
Christine Greenwood, Ethics and Discipline Committee

### **1. Welcome and approval of the October 5, 2020 minutes: (Judge Diana Hagen)**

Judge Diana Hagen welcomed everyone to the meeting and asked for approval of the minutes.

*Judge Diana Hagen moved to approve the October 5, 2020 minutes. Art Berger seconded the motion, and it passed unanimously.*

### **2. Discussion & Action—Continue reviewing public comments and make any necessary amendments to the rule drafts: (Judge Diana Hagen)**

Rule 11-512:

Respondent subpoena petitions:

Judge Hagen reported on the research she conducted regarding subpoena power and the Rules of Administrative Procedure. Judge Hagen recommended amending Rule 11-512

by adding paragraph (b), “Subpoena service.” Judge Hagen also recommended including language in paragraph (e) to address costs and service under Rule 45 of the Utah Rules of Civil Procedure. Billy Walker suggested amending Rule 11-523, paragraphs (c) and (d) to address similar references to costs and service, to which the Committee agreed.

*Judge Hagen moved to approve the proposed changes to Rule 11-512(b) and (e) and Rule 11-523(c) and (d). Judge Wells seconded the motion, and it passed unanimously.*

Rule 11-512(a):

Respondent subpoena petitions; Who may request a subpoena:

No further recommendations.

Rule 11-514(e):

Disclosure, recusal, and disqualification; Disqualification after Committee service:

No further recommendations.

Rule 11-520(a):

Chief Disciplinary Counsel and OPC counsel; Appointment and qualifications:

The Committee recommended amending paragraph (b) to address these concerns by adding, “serves at the pleasure of the Utah Supreme Court.”

*Judge Hagen moved to approve the proposed changes to Rule 11-520(b). Roger Smith seconded the motion, and it passed unanimously.*

Rule 11-520(b)(4)(A):

Chief Disciplinary Counsel and OPC counsel; Chief Disciplinary Counsel responsibilities:

The Committee recommended adding subparagraph (b)(4)(A)(vi) to include case aging statistics.

*Judge Hagen moved to approve the proposed changes to Rule 11-520(b)(4)(A)(vi). Art Berger seconded the motion, and it passed unanimously.*

Rule 11-520(d):

Chief Disciplinary Counsel and OPC counsel; Disqualification and conflicts of interest:

No further recommendations.

Rule 11-523:

OPC investigative subpoenas:

To foster consistency between Rules 11-512 and 11-523, the Committee recommended amending the title of paragraph (d) in Rule 11-512 to be “Quashing or enforcing subpoena” and amending Rule 11-512(d) to mirror the language of Rule 11-523(e).

*Judge Hagen moved to approve the proposed changes to Rule 11-512(d). Margaret Plane seconded the motion, and it passed unanimously.*

Rule 11-524(a)(2):

Retaining records; Effect of no imposed discipline:

No further recommendations.

Rule 11-530(a)(1):

Unprofessional conduct Complaints; Filing:

No further recommendations.

Rule 11-530(b):

Unprofessional conduct Complaints; Complaint form:

No further recommendations.

Rule 11-530(c):

Unprofessional conduct Complaints; Initial investigation:

No further recommendations.

Rule 11-530(g)(2)(B):

Unprofessional conduct Complaints; Notification and appeal:

The Committee agreed that service by mail on a Complainant is sufficient. To address additional concerns, the Committee recommended amending paragraph (g)(2)(B) to clarify that the Complainant must serve the notice of appeal on the OPC.

*Judge Hagen moved to approve the proposed changes to Rule 11-530(g)(2)(B). Judge Wells seconded the motion, and it passed unanimously.*

Rule 11-534(a): Final Committee disposition; Final, written determination:

No further recommendations.

### **3. Other business—Schedule next meeting: (all)**

The meeting adjourned at 5:30 p.m. The next meeting will be held November 9, 2020 from 4:00–5:30 p.m.